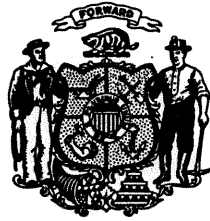


WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-006

AN ORDER to amend Ins 3.09 (19) (a); and to create Ins 3.09 (19) (c), relating to mortgage guarantee insurance.

Submitted by **OFFICE OF THE COMMISSIONER OF INSURANCE**

01-10-00 RECEIVED BY LEGISLATIVE COUNCIL.
01-31-00 REPORT SENT TO AGENCY.

RNS:RJC;jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES ☐

NO ☒

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES ☒

NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES ☐

NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached

YES ☐

NO ☒

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES ☒

NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES ☐

NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES ☐

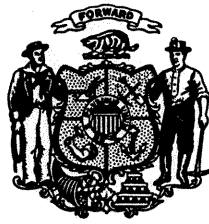
NO ☒

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CLEARINGHOUSE RULE 00-006

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. The relating clause of the rule and the treatment clauses of SECTIONS 1 and 2 of the rule refer to either s. Ins 3.09 (a) or 3.09 (c). A subsection number is needed. The correct references should be to s. Ins 3.09 (19) (a) or 3.09 (19) (c).

b. The word "if" after the amended portion of s. Ins 3.09 (19) (a) needs to be amended since it is capitalized in the current administrative code provision and is not in the rule. Appropriate striking and underscoring is required.

c. Since s. Ins 3.09 (19) (title) and (b) are not being amended, they should not appear in the rule.

d. Because s. Ins 3.09 (19) (c) is being created, it is not necessary to underscore the material. (See s. 1.06 (1), Manual.)

e. In the text of s. Ins 3.09 (19) (c), "the" should replace "such." Also, a comma should be inserted after "indirectly."

f. In the effective date provision, the phrase "These changes will" should be changed to "This rule shall."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The analysis states that the rule “. . . establishes standards for the transaction of mortgage guarantee business related to an affiliate when that affiliate is 50% owned by another party.” The text of the rule applies the 50% ownership standard to the mortgage guarantee insurers rather than to other affiliates. These seem to be saying different things. Can they be clarified?

b. It is suggested that the analysis and relating clause use “guaranty” rather than “guarantee” in order to reflect the language of the rule.

PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AMENDING A RU

To amend INS 3.09 (a), & to create INS 3.09 (c) Wis. Adm. Code, relating to mortgage guaranty insur

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41(3), 627.05 & 628.34 (12), Stats. and Chapter 617 Stats.

Statutes interpreted: ss. 600.01, 628.34 (12), Stats. and Chapter 617 Stats.

This proposed rule change establishes standards for the transaction of mortgage guaranty business related to an affiliate when that affiliate is 50% owned by another party. Existing rules prohibit such transactions.

SECTION 1. Section Ins 3.09 (a) is amended to read:

Ins 3.09 (19) CONFLICT OF INTEREST. (a) Except as described in par. (c), if a member of a holding company system as defined in s. Ins 40.01 (6), a mortgage guaranty insurer licensed to transact insurance in this state shall not, as a condition of its certificate of authority, knowingly underwrite mortgage guaranty insurance on mortgages originated by the holding company system or an affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly by the holding company system or affiliate.

(b) A mortgage guaranty insurer, the holding company system of which it is a part or any affiliate shall not as a condition of the mortgage guaranty insurer's certificate of authority, pay any commissions, remuneration, rebates or engage in activities proscribed in sub. (15).

SECTION 2. Section Ins 3.09 (c) is created to read:

Ins 3.09 (c) A mortgage guaranty insurer that is no more than 50% owned by or controlled by the holding company system or affiliate may underwrite mortgage guaranty insurance on mortgages originated by the holding company system or affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly by the holding company system or affiliate only if such insurance is underwritten on the same basis, for the same consideration and subject to the same insurability requirements as insurance provided to nonaffiliated lenders. Mortgage guaranty insurance underwritten on mortgages originated by the holding company system or affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly by the holding company system or affiliate shall be limited to 50% of the insurer's direct premium written in any calendar year.

SECTION 3. These changes will take effect on the first day of the first month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this _____ day of _____, 2000.

Manuel *provis-*

Connie L. O'Connell
Commissioner of Insurance



APR 17 2000

State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tommy G. Thompson
Governor

Connie L. O'Connell
Commissioner

April 14, 2000

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http://badger.state.wi.us/agencies/oci/oci_home.htm

HONORABLE JUDITH ROBSON
SENATE CO-CHAIRPERSON
JOINT COMM FOR REVIEW OF ADM RULES
15 SOUTH STATE CAPITOL
MADISON WI 53702

Re: Rule, Section Ins 3.09, Wis. Adm. Code, relating to mortgage guaranty
insurance

Clearinghouse Rule No. 00-006

Dear Senator Robson:

I am enclosing a copy of this proposed rule which has been submitted to the presiding officers of the legislative houses under s. 227.19 (2), Wis. Stat. A copy of the report required under s. 227.19 (3), Wis. Stat., is also enclosed.

Sincerely,

Connie L. O'Connell
Commissioner

CLO:SM

Attachment: 1 copy rule & legislative report

PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AMENDING A RULE

To amend INS 3.09 (19) (a), and to create INS 3.09 (19) (c) Wis. Adm. Code, relating to mortgage guaranty insurance.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41(3), 627.05 & 628.34 (12), Stats. and Chapter 617 Stats.

Statutes interpreted: ss. 600.01, 628.34 (12), Stats. and Chapter 617 Stats.

An insurance holding company system is 2 or more persons who are affiliates at least one of which is an insurer. An affiliate is any person who controls, is controlled by, or is under common control with another. This proposed rule change establishes standards for the transaction of mortgage guaranty business related to an affiliate when that affiliate insurer is at least 50% owned by another party. Existing rules prohibit such transactions.

SECTION 1. Section Ins 3.09 (19) (a) is amended to read:

(a) Except as described in par. (c) . If a member of a holding company system as defined in s. Ins 40.01 (6), a mortgage guaranty insurer licensed to transact insurance in this state shall not, as a condition of its certificate of authority, knowingly underwrite mortgage guaranty insurance on mortgages originated by the holding company system or an affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly by the holding company system or affiliate.

SECTION 2. Section Ins 3.09 (19) (c) is created to read:

(c) A mortgage guaranty insurer that is no more than 50% owned by or controlled by the holding company system or affiliate may underwrite mortgage guaranty insurance on mortgages originated by the holding company system or affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly, by the holding company system or affiliate only if the insurance is underwritten on the same basis, for the same consideration and subject to the same insurability requirements as insurance provided to nonaffiliated lenders. Mortgage guaranty insurance underwritten on mortgages originated by the holding company system or affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly by the holding company system or affiliate shall be limited to 50% of the insurer's direct premium written in any calendar year.

SECTION 3. This rule shall take effect on the first day of the first month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this _____ day of _____, 2000.

Connie L. O'Connell
Commissioner of Insurance

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R06/99)☒ ORIGINAL☐ UPDATED☐ CORRECTED☐ SUPPLEMENTAL

LRB Number

Amendment No. if
Applicable

Bill Number

Administrative Rule
Number

Ins 3.09

Subject

Mortgage guarantee insurance

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

0

II. Annualized Costs:

Annualized Fiscal impact on State funds from:

A. State Costs by Category

Increased Costs

Decreased Costs

State Operations - Salaries and Fringes

\$0

\$0 -

(FTE Position Changes)

(FTE)

(- FTE)

State Operations - Other Costs

-

Local Assistance

-

Aids to Individuals or Organizations

-

TOTAL State Costs by Category

\$0

\$0 -

B. State Costs by Source of Funds

Increased Costs

Decreased Costs

GPR

\$0

\$0 -

FED

-

PRO/PRS

-

SEG/SEG-S

-

CTION INS , WIS. ADM. CODE, RELATING TO .
GPR Taxes

Increased Rev.

Decreased Rev.

\$0

\$0 -

GPR Earned

-

FED

-

PRO/PRS

-

SEG/SEG-S

-

TOTAL State Revenues

\$0

\$0 -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$0

\$0

NET CHANGE IN REVENUES

\$0

\$0

Prepared by:

stephen k mueller

Telephone No.

608-267-2833

Agency

OCI

Authorized Signature:

Connie O'Connell

Telephone No.

608-267-1233

Date

4/13/00

FISCAL ESTIMATE		LRB Number
DOA-2048 N(R06/99)	<input type="checkbox"/> ORIGINAL <input type="checkbox"/> CORRECTED	Bill Number
Subject		Amendment No. if Applicable
Mortgage guarantee insurance		Administrative Rule Number Ins 3.09
Fiscal Effect		
State: x No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.		<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Decrease Costs
Local: x No local government costs		
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Chapter 20 Appropriations	
Assumptions Used in Arriving at Fiscal Estimate		
Long-Range Fiscal Implications none		
Prepared by: stephen k mueller	Telephone No. 608-267-2833	Agency OCI
Authorized Signature: Connie O'Connell	Telephone No. 608-267-1233	Date 4/13/00



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tommy G. Thompson
Governor

Connie L. O'Connell
Commissioner

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http://badger.state.wi.us/agencies/oci/oci_home.htm

REPORT ON Section Ins 3.09, Wis. Adm. Code, relating to
mortgage guaranty insurance

Clearinghouse Rule No 00-006
Submitted Under s. 227.19 (3), Stats.
The proposed rule-making order is attached.

(a) Statement of need for the proposed rule

to establish standards for transaction of mortgage guaranty business with
affiliates

(b) Modifications made in proposed rule based on testimony at public hearing:

none

(c) Persons who appeared or registered regarding the proposed rule:

Appearances For:

none

Appearances Against:

none

Appearances For Information:

none

Registrations For:

none

Registrations Against:

none

Registrations Neither for nor against:

none

Letters received:

none

(d) Response to Legislative Council staff recommendations

All comments were complied with and corrected.

(e) Regulatory flexibility analysis

1. No issues were raised by small businesses during the hearing on the proposed rule.
3. The proposed rule does not impose any additional reporting requirements on small businesses.
4. The proposed rule does not require any additional measures or investments by small businesses.
5. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule.
6. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule.

(f) Fiscal Effect

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations
April 14, 2000